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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,340	09/16/2003	Junji Kobayashi	H64-154706M/MNN	9314
21254 7590 08/02/2007 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			EXAMINER DOTE, JANIS L	
			ART UNIT 1756	PAPER NUMBER
			MAIL DATE 08/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary

Application No.

10/662,340

Applicant(s)

KOBAYASHI ET AL.

Examiner

Janis L. Dote

Art Unit

1756

All participants (applicant, applicant's representative, PTO personnel):

(1) Janis L. Dote.

(3) _____.

(2) Mr. Scott Tulino (Reg. No. 48,317).

(4) _____.

Date of Interview: 24 July 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference

c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: none.

Identification of prior art discussed: none.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: see the attached.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Janis L. Dote
Examiner's signature, if required

Art Unit: 1756

Discussed the Rule 132 declaration, which was executed on Jul. 4, 2007, by the five named inventors of the instant application, and which was filed on Jul. 13, 2007, with respect to the objection to the amendment to the specification filed on Dec. 9, 2004, under 35 U.S.C. 132, for the introduction of new matter, set forth in the final rejection mailed on Jan. 12, 2007, paragraph 3.

Mr. Tulino argued that the declaration shows that the amount of "85 wt%" binder resin in the originally filed specification is a typographical error, and that the correct amount is 84 wt%. The examiner replied that the Rule 132 declaration is deemed insufficient because it is incomplete. It is missing the attachments, References 1 and 2. Moreover, even if the missing attachments were identical to those attached to the unsigned Rule 132 declaration filed on Jun. 12, 2007, with the RCE, they would be insufficient. The evidence in References 1 and 2 does not support the declarants' statement that examples B248 and B250 in References 1 and 2, which comprise 84 wt% binder resin, correspond to examples 5 and 4, respectively, of the instant specification. For example, Examples B248 and B250 comprise the charge control agent "T-77." However, examples 4 and 5 comprise the charge control agent "Bontron S-34." See the originally filed specification,

Art Unit: 1756

page 29, lines 17-19. In addition, the declaration does not present any evidence showing that the toner compositions in examples 1-3 comprise 84% by weight of binder resin.

Moreover, regardless of the insufficiencies of the Rule 132 declaration, the examiner reminds applicants that no new matter may be entered into the specification. The declaration is not part of the originally filed specification. The question is whether applicants' remedy of the "typographical error" in the originally filed specification would have been obvious to a person having ordinary skill in the art upon reviewing the originally filed specification. The examiner stated that because there are four or five components in the toner compositions in examples 1-5, the answer would be "no."

The examiner stated that applicants have two options to overcome the new matter objection, namely:

(1) file a C-I-P, correcting the amount of the binder resin in the examples from "85 wt%" to -- 84 wt% --; or

(2) amend the specification by replacing the amount "84 wt%" with the originally disclosed amount of -- 85 wt% -- and provide convincing arguments explaining that there is a typographical error in the amount of the binder resin but that the actual amount of the binder resin is not critical to the subject matter recited in the instant claims (which the examiner

Art Unit: 1756

noted that applicants hinted at in their comments set forth in the petition filed on Mar. 12, 2007, page 2, second full paragraph).

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.